

REMARKS

In the interest of compact prosecution, Applicants hereby amend independent claims 1 to incorporate features found in dependent claim 2, and accordingly cancel claim 2. Claim 7 is amended to refer to claims 1 or 3, in accordance with cancellation of claim 2. As such, claims 1 and 3-9 are all the claims pending in the present Application. Claims 4-6 and 9 are withdrawn.

Further, claim 3 is amended to delete the recitations of SEQ ID NOs: 1, 3, 5, 7, 9 and 11.

Accordingly, no new matter has been introduced by these amendments to claims. It is also believed that the amendments do not raise an issue which requires new search or consideration. Entry and consideration of the amendments are respectfully requested.

I. Preliminary Matters

A. Claim to Priority

Applicants thank the Examiner for acknowledging the claim for foreign priority.

In the Office Action Summary, however, the Examiner indicated that he has not received the certified copies of the priority document from the International Bureau.

Accordingly, Applicants will submit a certified copy of the Korean priority document and request that the Examiner acknowledge the receipt of the certified copy of the priority document.

B. Election/Restrictions - Request for Rejoinder

Previously, the Examiner asserted that a DNA sequence and an amino acid sequence are structurally different and that each sequence is patentably distinct. In the outstanding Office Action, the Examiner states that DNA SEQ ID NO: 3 has been withdrawn from consideration and amino acid SEQ ID NO: 4 is under examination.

In response, Applicants point out that amended claim 1 is free of prior art and thus, believed to satisfy the unity of invention. Also, amended claim 1, which is generic to the

specific sequences recited in claim 3, is not taught by Aderem, claim 3 also is not taught by Aderem and the Examiner should rejoin the remaining non-elected species of claim 3.

II. Present Claims comply with 35 U.S.C. § 112

At pages 4-5 of the Office Action, claims 3 and 7-8 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Specifically, the Examiner states that the claims are indefinite by reciting improper Markush language.

In response, to expedite the prosecution, Applicants have amended claim 3 to recite a Markush group in accordance with the expression, “selected from the group consisting of the peptides of” SEQ ID NOs: 2, 4, 6, 8, 10 and 12, as the Examiner suggests.

Accordingly, Applicants respectfully request that the above rejection under 35 U.S.C. § 112 be reconsidered and withdrawn.

III. Present Claims Define Allowable Subject Matter

Claims 1-2 and 7-8 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Aderem et al. (WO 2002/085933A1; “Aderem”).

Applicants have amended claim 1, solely to expedite the prosecution. Applicants assert that the current amendment to claim 1 renders moot all outstanding claim rejections, because the cited art fails to disclose each and every element of the presently claimed invention.

As pointed out in M.P.E.P. § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)."

Applicants respectfully assert that the Office Action failed to provide a prior art reference that teaches every element as set forth in the amended claim.

Independent claim 1, as amended, recites that "said flagellins are obtained from *Vibrio vulnificus*." Applicants respectfully assert that Aderem fails to disclose the flagellins as set forth in independent claim 1.

The rejection of claim 2 is rendered moot by cancellation of claim 2.

In addition, Applicants respectfully assert that dependent claims 7 and 8 are allowable over Aderem at least because of their dependency from independent claim 1 and the reasons set forth above.

Accordingly, Applicants respectfully request that the above rejection under 35 U.S.C. § 102 be reconsidered and withdrawn.

Applicants further believe that claim 3, which is dependent from claim 1, is also patentable, for at least the same reasons for patentability of claim 1.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number **202-775-7588**.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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